



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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Serial No.: 09/885,223 Customer No.: 28863
Filed: June 20, 2001 Examiner: Kristie D. Shingles
Group Art Unit: 2141
Docket Nos.: 1014-003US01/JNP-0036
Title: MULTILINK ROUTING

CERTIFICATE UNDER 37 CFR 1.8: I hereby certify that this correspondence is being deposited with the United States Post Service, as First Class Mail, in an envelope addressed to: Commissioner for Patents, Alexandria, VA 22313-1450 on September 19, 2005.

By:

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PRE-APPEAL BRIEF REQUEST FOR REVIEW

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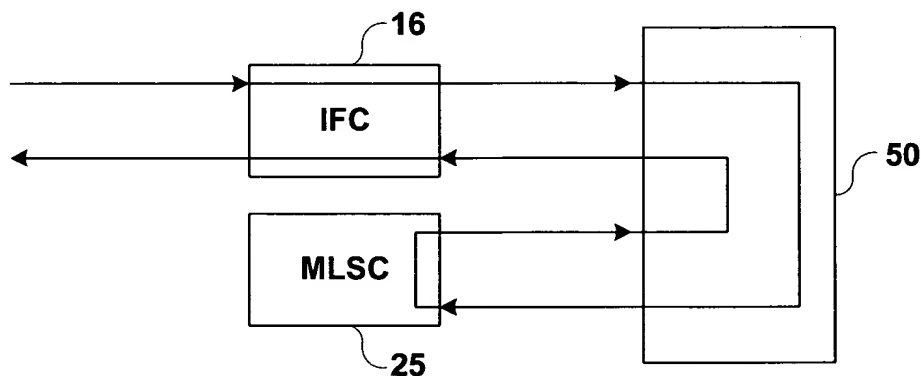
Dear Sir:

Applicants respectfully request a Pre-Appeal Brief Request for Review, based upon the Examiner's failure to establish a prima facie case of anticipation under 35 U.S.C. § 102. As outlined in greater detail below, the applied reference fails to disclose one or more claimed elements. For this reason, the anticipation rejections under 35 U.S.C. § 102 are clearly improper and must be reversed.

Details of some the Examiner's errors are set forth below. For simplicity, Applicants have primarily focused the arguments below on pending independent claim 19. Similar arguments apply to all other independent claims. By setting forth these clear grounds for error, Applicants do not assert that these are the only errors that the Examiner has made, nor do Applicants waive any arguments that may be asserted in an Appeal Brief.

In general, Applicants' invention is directed to a router having interface cards for sending and receiving multi-link network communications (i.e., a sequence of packet data communicated over a plurality of links in parallel) and separate service cards that can be selectively added to the router for resequencing the communications. The separate interface cards (IFCs) and service multi-link service cards (MLSC) can be best understood by viewing FIGS 3, 4 and 5A-5C of the present application. FIG. 5B of Applicants' disclosure is reproduced below.

FIGURE 5B



Some of the unique architectural aspects of a router, as recited Applicants' claims, are illustrated in FIG. 5B. As shown, interface card 16 and multi-link service card 25 are distinct structural components of the router. Interface card 16 receives a set of data blocks from a source within a computer network according to a multi-link protocol. Routing control unit 50 is coupled to the interface card 16 and multi-link service card 25. Routing control unit 50 forwards the set of data blocks from the interface card 16 to the multi-link service card 25 for sequencing. The use of a separate multi-link service card to sequence packets sent according to a multi-link protocol allows a router to be upgraded to include the multi-link service functionality via a distinct card, e.g., that a card that can be inserted or removed from the router (see dependent claim 53).

Independent claim 19 recites a router comprising at least one interface card for receiving a set of data blocks from a source within a computer network according to a multi-link protocol, a multi-link service card, and a routing control unit coupled to the interface card and the multi-link service card to forward the set of data blocks to the multi-link service card for sequencing. All other pending independent claims (except claim 34) generally recite the use of an interface card that receives packets, blocks or fragments, and the use of a multi-link service

card that performs sequencing of the packets, blocks or fragments. Claim 34 is directed to a multi-link service card for insertion within a network device.

In the Final Office Action, the Examiner rejected claim 19 (and all other pending claims) under 35 U.S.C. 102(e) as being anticipated by Blair (USPN 6,778,495). Based at least on the following arguments, Applicants believe that these rejections are clearly erroneous and in violation of the “all elements rule.” In order to support an anticipation rejection under 35 U.S.C. 102(e), it is well established that a prior art reference must disclose each and every element of a claim. This well known rule of law is commonly referred to as the “all-elements rule.”¹ If a prior art reference fails to disclose any element of a claim, then rejection under 35 U.S.C. 102(e) is improper.² In this case, Blair fails to disclose each and every element of a claim 19 (and all pending independent claims). Accordingly, Blair does not satisfy the “all-elements rule” with respect to Applicants’ claims. Therefore, the rejections under 35 U.S.C. 102(e) are improper and should be reversed.

For example, with respect to claim 19, Blair fails to disclose or suggest an interface card for receiving packets, and a separate multi-link service card that sequences the packets. Moreover, Blair fails to disclose or suggest a routing control unit coupled to the interface card and the multi-link service card to forward the set of data blocks to the multi-link service card for sequencing. These or similar arguments applies to all pending claims (except claim 34). With respect to claim 34, Blair fails to disclose or suggest multi-link service card comprising an electrical interconnection interface for coupling the multi-link service card to the network device, and also lacks any suggestion of a multi-link service card that performs the other functions required by claim 34.

With respect to Blair, the Examiner’s arguments can be best understood by review of the Advisory Action mailed 8/9/2005. In that Action, Advisor Action, the Examiner correctly admits that Blair fails to teach a “multi-link service card.” The Examiner then argues that: (1) the Blair router incorporates multi-link functionality by directing the resequencing of packets,

¹ See *Hybritech Inc. v. Monoclonal Antibodies, Inc.*, 802 F.2d 1367, 231 USPQ 81 (CAFC 1986) (“[I]t is axiomatic that for prior art to anticipate under 102 it has to meet every element of the claimed invention.”).

² *Id*; see also *Lewmar Marine, Inc. v. Barient, Inc.* 827 F.2d 744, 3 USPQ2d 1766 (CAFC 1987); *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (CAFC 1990); *C.R. Bard, Inc. v. MP Systems, Inc.*, 157 F.3d 1340, 48 USPQ2d 1225 (CAFC 1998); *Oney v. Ratliff*, 182 F.3d 893, 51 USPQ2d 1697 (CAFC 1999); *Apple Computer, Inc. v. Articulate Systems, Inc.*, 234 F.3d 14, 57 USPQ2d 1057 (CAFC 2000).

and (2) Blair discloses a terminal interface [that receives packets from a network]. From the Examiner's summary alone it is clear that the Examiner completely overlooks the Applicant's claim requirements of interface cards and service cards that separately perform the functions of sending and receiving multilink communications (via interface cards) and resequencing those communications (via multi-link service cards). It appears the Examiner has cited a reference that shows nothing more than a network device that supports multi-link communications and controls sequencing of the communications. Indeed, the Examiner relies on this exact position in the Advisory Action as summarized above. This prior art approach has little to do with Applicant's claims.

In Applicants' present application and claims, an interface card and a service card are recited as distinct cards that may be separately added to a router. A routing component forwards any received multi-link communication between the interface card and the service card for resequencing. Blair does not disclose the use of an interface card and a separate multi-link service card, whatsoever. Indeed, the portions of Blair cited by the Examiner show only the general proposition that a device can support multi-link communications, which was a well known fact. There is no teaching or suggestion anywhere in Blair that data packets received by an interface card are first routed to a separate multi-link service card for sequencing. Applicants' claims are directed not only to the sequencing that is performed in a router, but also to a unique physical architecture of the router that facilitates such sequencing in an upgradeable manner. In particular, Applicants' claims require the use of a multi-link service card to perform such sequencing for communications received by a different card, i.e., an interface card. Any suggestion of a separate multi-link service card is lacking from Blair.

Moreover, even if Blair suggests some type of sequencing that is similar to that performed by a multi-link service card (which Applicants' do not admit), Blair would still lack any suggestion of a physical architecture of the router that includes separate cards for receiving packets and sequencing the packets. Put another way, the techniques described in Blair do not explicitly or inherently suggest the use of any removable service card that is distinct from an interface card, much less a multi-link service card that performs sequencing according to a multi-link protocol for communications received by a different interface card.

Again, Blair lacks any suggestion of a router architecture that includes an interface card and a separate multi-link service card that performs sequencing. Nothing in Blair suggests that data packets received by an interface card are routed to a separate multi-link service card for sequencing. These features are simply lacking from Blair. Therefore, Blair does not satisfy the “all-elements rule.” Accordingly, the rejections under 35 U.S.C. 102(e) is improper and must be reversed.

For the record, Applicants also note that Blair also lacks several other features of the pending claims. For example, the portions of Blair relied upon by the Examiner in the current rejections do not even disclose sequencing, as required by Applicants claims. This deficiency of Blair was also discussed in the previous After-Final response. Moreover, several dependent claims recite additional features that are lacking from Blair. At this time, however, Applicants reserve further comment with respect to whether Blair even discloses sequencing, as recited in the current claims. Applicants also reserve further comment with respect to the dependent claims, but reserve the right to present more detailed arguments if an Appeal Brief is deemed necessary.

CONCLUSION

Blair fails to disclose each and every limitation set forth in claims 1-43 and 50-53. For at least this reason, the Examiner has failed to establish a prima facie case for anticipation of Applicants’ claims 1-43 and 50-53 under 35 U.S.C. 102(e). Applicants request a review and a panel decision that promptly resolves the issues in Applicants’ favor and eliminates the need for an Appellate Brief.

Application Number 09/885,223
Pre-Appeal Brief Request for Review

Please charge any additional fees or credit any overpayment to deposit account number 50-1778. The Examiner is invited to telephone the below-signed attorney to discuss this application.

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September 19, 2005
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